

Sumter City-County Board of Appeals

March 10, 2010

BOA-10-05, 1260 Jessamyn Rd. (County)

I. THE REQUEST

Applicant: Sumter County

Status of the Applicant: Property Owner

Request: A 25 ft. side yard setback variance and a 15 ft. rear yard setback variance as required by Article 3, Section N, 3.n.5, to renovate and construct a one truck bay addition to the Oswego Fire Substation

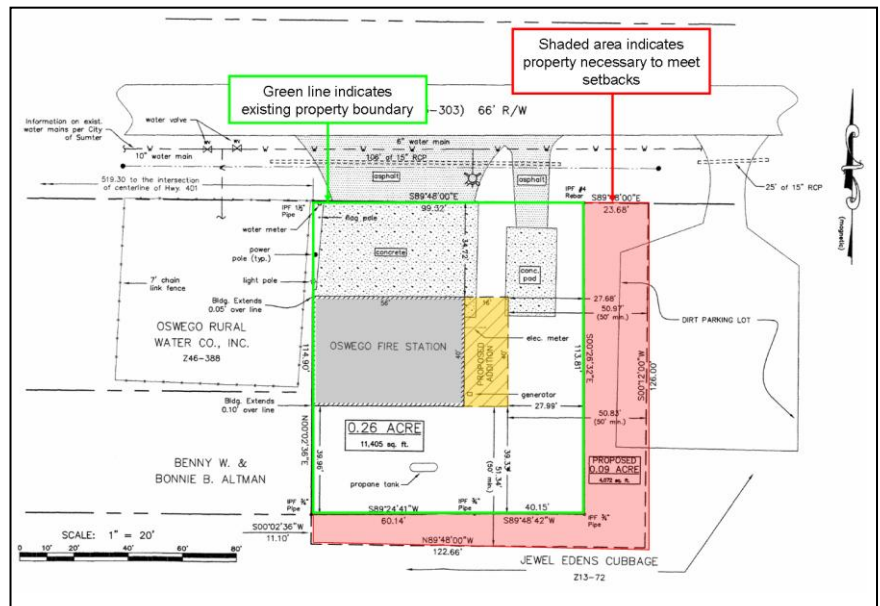
Location: 1260 Jessamyn Rd.

Present Use/Zoning: Fire Substation/Agricultural Conservation (AC)

Tax Map Reference: 273-00-06-036

II. BACKGROUND

The subject property is the location of the Oswego Fire Substation. The applicant, Sumter County, is requesting a 25 ft. side yard setback variance and a 15 ft. rear yard setback variance in order to renovate the existing building and construct a one truck bay addition to the Oswego Fire Substation. These variances would reduce the required side and rear setbacks from 50 ft. to 25 ft. and 35 ft. respectively. The applicant has approached the adjacent owner to acquire the additional land necessary to meet the 50 ft. setbacks however the adjacent property owner is unable to convey the necessary land.



As shown in the graphic to the right, the existing building – shown in gray, sits on the westernmost property line. The proposed addition – shown in yellow, will be less than 50 ft. from the existing property line which is shown in green. The area shaded in red indicates the additional land that would be required to meet the 50 ft. setbacks on this property. These proposed renovations are part of the projects funded by the Penny Sales Tax.

According to the Sumter County Assessor's Property Card, the site was originally developed and constructed in 1949. In 1988 the County acquired the property and based on available plat records, the existing structure was

sitting on two parcels. At the time of acquisition in 1988, Sumter County acquired the two tracts the building is sited on and one additional tract to create the 0.26 acre parcel that exists today.



Pictured above: (Left) front view of fire station. The proposed addition is to be located on the left side of the building. (Right) the existing tree line approximated the existing property line.

Based on the setback regulations found in Article 3, Section 3.n.5 *Development Standards for Uses in AC District* in the Sumter County Zoning & Development Standards Ordinance, non-residential uses in the AC district must adhere to the following setback standards:

Minimum Yard Setbacks:

*Front (Jessamyn Rd.) – 35 ft.
Sides – 50 ft.
Rear – 50 ft.*

In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

III. FOUR-PART TEST

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The property was originally developed in 1949 with changes to the property boundaries in 1988 to increase the size of the parcel to a 0.26 acre tract. This development was prior to any current zoning regulations. Currently the site is non-conforming with respect to all of the required setbacks. The proposed addition would increase the rear and site setback non-conformities.

The applicant has approached the adjacent property owner about acquiring additional land necessary to meet the 50 ft. rear and eastern side setback; however the adjacent owner is not able to convey any additional land without negatively impacting their existing agri-business.

2. These conditions do not generally apply to other property in the vicinity.

This rural fire station is situated in proximity to Oswego Hwy. in a sparsely populated area that is predominantly agricultural. Two parcels would be impacted by this request. One, owned by Oswego Rural Water Company, is the site of a water tower; the other is an unpaved parking area for the adjacent u-pick farming operation. This use is the only traditionally commercial use in the immediate area.

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The existing fire station requires an additional truck bay to continue serving the area with adequate fire protection services. Currently the structure has three truck bays and one smaller “garage” space for a regular size vehicle. As part of the renovation, the smallest vehicle bay would be converted into classroom space and a new full size truck bay would be added. Based on recorded deed restrictions, this property can only be used for fire protection purposes. Without the variances, the proposed renovations and additions cannot be completed, impairing the long-term utility of this necessary public safety facility.

4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

Granting the variance will allow the construction of the additional truck bay and interior renovations. Authorization of a 15 ft. rear setback variance and a 25 ft. side yard setback variance in this situation will not harm the character of the district or be a detriment to adjacent property or the public good. Fire protection facilities are part of the necessary public infrastructure that helps to preserve public health and safety.

IV. STAFF RECOMMENDATION

Upon finding that the request meets all parts of the required four-part test, Staff recommends approval of BOA-10-05.

V. DRAFT MOTIONS for BOA-10-05

- A.** I move that the Sumter Board of Appeals approve BOA-10-05, subject to the findings of fact and conclusions contained in draft order, dated March 10, 2010 attached as Exhibit 1.
- B.** I move that the Sumter Board of Appeals deny BOA-10-05 on the following findings of fact and conclusions:
- C.** I move that the Sumter Board of Appeals enter an alternative motion for BOA-10-05.

VI. ZONING BOARD OF APPEALS – MARCH 10, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, March 10, 2010, voted to approve this request, based on the findings of fact and conclusions on exhibit 1.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-05, 1260 Jessamyn Rd. – Sumter County Fire Substation
March 10, 2010

Date Filed: March 10, 2010

Permit Case No. BOA-10-05

The Sumter Board of Appeals held a public hearing on Wednesday, March 10, 2010 to consider the appeal of Sumter County, 13 E. Canal St., Sumter, SC 29150 for a variance from the strict application of the City Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☒ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The property was originally developed in 1949 with changes to the property boundaries in 1988 to increase the size of the parcel to a 0.26 acre tract. This development was prior to any current zoning regulations. The applicant has approached the adjacent property owner about acquiring additional land necessary to meet the 50 ft. rear and eastern side setback; however the adjacent owner is not able to convey any additional land without negatively impacting their existing agri-business.

2. The Board concludes that these conditions ☐ **do** - ☒ **do not** generally apply to other property in the vicinity based on the following findings of fact:

Oswego Fire Station is situated in proximity to Oswego Hwy. in a sparsely populated area that is predominantly agricultural. Two parcels would be impacted by this request. One, owned by Oswego Rural Water Company, is the site of a water tower; the other is an unpaved parking area for the adjacent u-pick farming operation. This use is the only traditionally commercial use in the immediate area subject to the 50 ft. non-residential side and rear setbacks.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☒ **would** - ☐ **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

The existing fire station requires an additional truck bay to continue serving the area with adequate fire protection services. Currently the structure has three truck bays and one smaller “garage” space for a regular size vehicle. As part of the renovation the smallest vehicle bay would be converted into classroom space and a new full size truck bay would be added. Based on recorded deed restrictions, this property can only be used for fire protection purposes. Without the variances, the proposed renovations and additions cannot be completed, impairing the long-term utility of this necessary public safety facility.

4. The Board concludes that authorization of the variance ☐ **will** - ☒ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☒ **will not** be harmed by the granting of the variance based on the following findings of fact:

Granting the variance will allow the construction of the additional truck bay and interior renovations. Authorization of a 15 ft. rear setback variance and a 25 ft. side yard setback variance in this situation will not harm the character of the district or be a detriment to adjacent property or the public good. Fire protection facilities are part of the necessary public infrastructure that helps to preserve public health and safety.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED** – ☒ **GRANTED**, subject to the following conditions:

Date issued: _____

Chairman

Date mailed to parties in interest: _____

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.